

MINUTES

STATE OF WASHINGTON

ENERGY FACILITY SITE EVALUATION COUNCIL

February 12, 2001 – Regular Meeting

Rowe Six Conference Center

Building 1

4224 6th Avenue SE

Lacey, Washington

Item 1: Call to Order

Chair Deborah Ross called the meeting to order at 1:30 p.m. A quorum was present.

Item 2: Roll Call

Chair	Deborah Ross
Department of Agriculture	Daniel Jemelka
Community, Trade & Economic Development	Heather Ballash
Department of Ecology	Chuck Carelli
Department of Fish & Wildlife	Jenene Fenton
Department of Health	Ellen Haars
Military Department	Glen Woodbury
Department of Natural Resources	Gayle Rothrock
Department of Transportation	John Doyle and Gary Ray
Utilities and Transportation Commission	Dick Byers and Robert Wallis
City of Chehalis	Fred Rider
Lewis County	Ken Sabin

Others in Attendance

EFSEC Staff and Counsel

Allen Fiksdal

Mike Mills

Robert Fallis, AAG, EFSEC

Irina Makarow

Michelle Elling

Guests

Brian Carpenter, REBOUND

Liz Thomas, Preston, Gates & Ellis

Kevin Finan, Tractebel

Mike Torpey, BP Cherry Point

Douglas Morell, Golder Associates

Dave Tomlinson, Ecology & Environment, Inc.

Mike Dunning, AAG, Counsel for Environment

Tony Usibelli, CTED

David & Rose Spogen, CIC

Wayne White, Tractebel

Beth Spelsberg, Golder Associates

Jim Thornton, Golder Associates

Bill Staeger, JSA

Grant Bailey, JSA

Item 3: Approval of Minutes

The minutes of the January 8, 2001 meeting were adopted as presented.

Item 4: Adoption of Proposed Agenda

The Council approved the agenda as submitted.

Item 5: Chehalis Generation Facility

<i>Order on SCA Amendment Request</i>	<i>Heather Ballash, EFSEC Member reporting</i>
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Ms. Ballash presented the Council recommendation to the Governor on the Chehalis Power Amendment Application.

“The Council has concluded the adjudicated hearing and its deliberations in the matter of Amendment No. 1 to the Site Certification Agreement between the State of Washington and Chehalis Power Generating, Limited Partnership, for the Chehalis Generation Facility located in Chehalis, Washington.

The Council entered an initial order and draft amended Site Certification Agreement (SCA) on December 5, 2000. The parties submitted petitions for administrative review and replies to the petitions regarding the initial order. The Council has considered those submissions and concluded its deliberations.

It is my understanding that the Council members who participated in the adjudicative proceedings and deliberations on this amendment are prepared to vote today on an Order Recommending Approval of Amendments on Condition to send to the Governor regarding Chehalis Power’s proposed amendment to the SCA. The written order and draft Amended Site Certification Agreement (SCA) will be entered upon being signed by all Council members and then transmitted to the Governor.

The order that will be issued will address all of the amendments and contested issues in this proceeding except the Prevention of Significant Deterioration (PSD) air emissions permit. As is noted in the order, the United States Environmental Protection Agency (EPA) must co-sign the PSD permit. The Council is still awaiting concurrence from the EPA. The Council understands that completion of the PSD air permit may require additional time after the EPA has made a determination for additional public notice and/or hearings.

The Council has decided to send its order and recommendation to the Governor on the proposed amendments without the PSD permit. Therefore, the order that is entered as a result of the vote today will not address the PSD permit issues pending concurrence from the EPA. The Council may issue a supplemental order and recommendation when it transmits the PSD permit to the Governor upon completion of the PSD permit process.

As to the other proposed revisions, the Council will recommend to the Governor that the amendment to the SCA should be granted, with a number of conditions.

The proposed conditions are consistent with those discussed in the Council’s initial order, with one exception. The mitigation requirements for greenhouse gas emissions have been revised based on the petitions for administrative review and replies, and further review of the adjudicative record by the Council. The Council will now recommend that Chehalis Power submit a plan that includes specific actions for offsetting the total amount of increase in carbon dioxide emissions (8%) as a result of the increase in energy output. Upon submittal of the greenhouse gas emission offset plan, the Council will review the plan for actions that will lead to actual offsets of the increase in greenhouse gas emissions by the Chehalis Generating Facility. Chehalis Power will be required to implement the plan upon approval by the Council.

At this time, I would like to ask the Council if there is a motion proposing that the Council vote to approve the proposed Order and draft Amended SCA for transmittal to the Governor.

Motion: Propose that the Council vote to approve the proposed Order and draft Amended SCA for transmittal to the Governor.”

A roll call vote was taken. The voting went as follows:

Chair	Deborah Ross	Abstain
Department of Agriculture	Daniel Jemelka	Yes
Community, Trade & Economic Development	Heather Ballash	Yes
Department of Ecology	Chuck Carelli	Yes
Department of Fish & Wildlife	Jenene Fenton	Yes
Department of Health	Ellen Haars	Yes
Department of Natural Resources	Gayle Rothrock	Yes
Department of Transportation	Gary Ray	Yes
Utilities and Transportation Commission	Robert Wallis	Yes
City of Chehalis	Fred Rider	Yes
Lewis County	Ken Sabin	Yes

“Action: The motion passed with one abstention.

It is my understanding from staff that preliminary copies of the order without signatures are available today. Official copies with all of the Council members signatures will be available upon transmission to the Governor and service on all of the parties to the adjudication.

I would like to request from the Chair that we take a break in order for Council members to sign the order. Unsigned copies will now be available on the back table.”

<i>Plan review</i>	<i>Mike Mills, EFSEC staff reporting</i>
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Mr. Mills reported that the plan review for the Chehalis project is continuing with local and state agencies, while staff is focusing on the initial site restoration plan. A recommendation on the initial site restoration plan is planned for the next Executive Committee Meeting. Tractabel Power has assigned a new project manager to this project. Mr. Paul Margaritis has taken an assignment in Shanghai, China and Mr. Kevin Finan has been appointed the project manager for Chehalis Generation Facility project.

Item 6: Satsop Combustion Turbine (CT) Project

<i>SCA Amendment or Transfer Request – Energy Northwest/Duke Energy</i>	<i>Allen Fiksdal, EFSEC Manager reporting</i>
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Resolution No. 297 to add Duke Energy Grays Harbor LLC (Duke Energy) to the Site Certification Agreement (SCA) for the Satsop CT Project was presented by EFSEC staff to the Council for consideration. Letters requesting that Duke Energy be added to the SCA as co-holder and co-permittee were received from both Energy Northwest and Duke Energy. The letters stated that the two companies had reached an agreement whereby Duke Energy would purchase Energy Northwest's interest in the project. Under the terms of that agreement, Duke Energy will construct the project; Duke Energy and Energy Northwest will jointly operate the facility; and Energy Northwest will retain an interest in a portion of the facility's output. This change to the SCA would hold both entities accountable for fulfilling the terms of the SCA. Comments received on the proposed amendment request did not express opposition to the request for changes to the SCA.

The Council's rules on amending SCAs state that amendment requests must be consistent with public health, safety and welfare; applicable laws and rules; and the intention of the original SCA. Based on its review, the Council concluded that the proposed amendment is consistent with those requirements.

The Council also considered whether this was a technical amendment or a transfer of an SCA under its rules. The proposed action is not considered to be a transfer because Energy Northwest is not relinquishing any legal obligations, another responsible party is simply being added to the SCA. The proposed amendment was also found to meet the criteria for a technical amendment for approval by resolution.

The staff recommendation is to approve the addition of Duke Energy as a co-permittee to the Satsop CT Project SCA as a technical amendment. The proposed resolution would delegate authority to the Council Chair to make such modifications to the SCA as deemed necessary to effect the Council's intent in the resolution.

Motion: To add Duke Energy Grays Harbor LLC as a co-permittee to the SCA as a technical amendment.

Action: The motion passed unanimously.

Motion: To authorize the Chair to sign Resolution No. 297, adding Duke Energy Grays Harbor LLC as a co-holder and co-permittee to the Satsop Combustion Turbine SCA.

Action: The motion passed unanimously.

Item 7: Sumas Energy 2

<i>Special Meeting – 2/16/01 in Bellingham</i>	<i>Allen Fiksdal, EFSEC Manager reporting</i>
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Mr. Fiksdal reported that a special meeting is scheduled on Friday, February 16, 2001, in Bellingham, Washington, in the Whatcom County Council Chambers, to consider the Council's recommendation to the Governor. After the vote has been taken, Mr. Mills will send an e-mail version of the recommendation to the Governor's office and the agencies represented on the Council, as requested through Mr. Fiksdal.

<i>FEIS Issuance</i>	<i>Allen Fiksdal, EFSEC Manager reporting</i>
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The Council issued the Sumas Energy 2 Final Environmental Impact Statement (FEIS) at a special Council meeting held on February 7, 2001. The FEIS was mailed to libraries in the region; distributed to those who requested it from our mailing list; and was posted to our website. Two copies were made available to Ecology's SEPA unit. Versions of the FEIS are available in hard copy or CD-Rom.

<i>JSA Contract Amendment – Draft Application Review</i>	<i>Allen Fiksdal, EFSEC Manager reporting</i>
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Mr. Fiksdal reported that Jones and Stokes Associates (JSA) has requested payments for out-of-scope work they performed under the Sumas Energy 2 contract with the Council. A Council committee was formed at the Executive Committee meeting of February 5, 2001, and is reviewing the Jones and Stokes contract and documentation. They will bring a recommendation back to the Council regarding payment for out-of-scope work.

Item 8: Starbuck Potential Site Study

<i>Progress Report</i>	<i>Bill Staeger, JSA staff reporting</i>
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Mr. Staeger presented a progress report to the Council and summarized Jones and Stokes activities on the Starbuck Potential Site Study.

January 2001 was spent completing the review of the internal draft of the PSS report. The administrative draft of the PSS report was completed in February 2001. The Environmental Assessment contained in the report is intended to develop a basic understanding of the proposed project, and to identify potential impacts. It is not a detailed analysis of the impacts. It will raise questions that need to be answered in the formal application by the project proponent.

The work is on schedule and within budget and the contract lists a final PSS report to be delivered on March 5, 2001. Council comments on the administrative draft would be necessary by February 21st in order to complete the final document by the targeted March 5, 2001 date.

Activities for the remainder of February include completing the draft report and initiating review of draft sections of the application. The applicant has received three copies of the draft PSS report to review at this time. On February 26th a meeting will be held with EFSEC staff, JSA, Bonneville Power Administration (BPA), and the applicant to discuss coordination of the NEPA/SEPA EIS and what submittals will be required from both the Starbuck and Wallula proponents, regarding transmission lines.

<i>Jones & Stokes Contract Amendment – Draft Application Review</i>	<i>Irina Makarow, EFSEC staff reporting</i>
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Ms. Makarow reported that Task 3 of the Jones and Stokes contract for preparation of the Starbuck PSS covers the preparation and completion of the Starbuck PSS and work that would be performed by JSA to review sections of the Draft Application that the project proponent will submit in the future. The task was created under Amendment 6 to the contract with an original budget of \$120,000. At that time two phases were identified, the first was preparation of the PSS report and associated documents, which has been presented to the Council in the administrative draft, and the second is the review and comment of draft sections of the application for site certification. In Amendment 7, the budget was increased to take into account changes due to project design and general coordination. The purpose of today's amendment is to clarify the work to be performed by JSA in reviewing the draft application. JSA foresees receiving the draft application in three sections, commenting on each section with review time allotted for the proponent and EFSEC, and then a final review of a full draft of the application submitted by the proponent.

Amendment 10 would therefore amend the Scope of Work and increase the budget by \$119,000, bringing the total budget for Task 3 to \$310,000. The total obligated amount for all JSA contract tasks, including Sumas, Wallula and Starbuck projects would be raised to \$867,000.

Starbuck has agreed to the budget changes, tasks and schedule for this work.

Motion: To approve Amendment 10 to Jones and Stokes Contract, Task 3, of \$119,000, for an increase in the budget and clarification of the scope of work to complete review of the draft application for site certification for the Starbuck Power Project.

Action: The motion passed unanimously.

Item 9: Newport Northwest - Wallula

<i>Progress Report</i>	<i>Grant Bailey, JSA staff reporting</i>
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Mr. Bailey presented a progress report to the Council and summarized Jones and Stokes activities for the Wallula Potential Site Study.

JSA technical staff made contacts with their counterparts in the state agencies. Minor comments were received, with no major concerns being voiced about the proposed project. The Environmental Assessment, which includes the criteria standards, will be provided to EFSEC by the end of February and any additional comments from the agencies aren't expected until after they have an opportunity to review the draft PSS report.

There will be a meeting on Feb. 26th preparing for the coordinated NEPA/SEPA EIS process for both the Starbuck and Wallula projects. This meeting will allow EFSEC, JSA, BPA and the proponents to discuss plans for coordinating EIS activities.

The Council requested a two-week turnaround time on review of future documents prepared by JSA for the Starbuck and Wallula projects. This time is to be included in future schedules involving Council review and responses.

<i>Jones & Stokes Contract Amendment – Draft Application Review</i>	<i>Irina Makarow, EFSEC staff reporting</i>
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Ms. Makarow reported that the proposed Amendment 11 – Task 2, Wallula PSS, is to clarify the scope of work for review and comment of draft sections of the application for SCA for the Wallula project. In earlier amendments, Nos. 4 and 9, when the task was created, it was intended to have this work done, but no specific costs were associated or clear tasks were outlined. For contract organizational purposes only, the amendment will subdivide the Scope of Work into Phase 1 and Phase 2, similar to the Starbuck PSS contract. Phase 1 will include work done up to date and will continue through preparation of the PSS report and associated documents. Phase 2 would cover the review and comment on draft sections of the application. The Task 2 budget would increase by \$127,500 to a total of \$319,500, increasing the total obligated contract amount for JSA to \$994,500.

Ms. Makarow indicated an additional change to correct one typographical error, listed on the last page, under the Task 2 budget, the total amount should read \$319,500 instead of \$318,500.

There was discussion by Council members, staff and JSA about the \$1.5 million cap set for the JSA contract and future preparations in case there needs to be a request through OFM to raise or amend the cap in a timely manner, allowing projects to continue with the least amount of disruption to schedules.

Motion: To approve contract Amendment 11-Task 2 to clarify work to be completed and increase the budget by \$127,500, with the one correction as noted. This will allow review of draft sections of the application for site certification for the Wallula project.

Action: The motion passed unanimously.

Item 10: Cogentrix – Mercer Ranch Generation Facility

<i>Selection of Independent Contractor</i>	<i>Allen Fiksdal, EFSEC Manager, reporting</i>
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Science Applications International Corporation (SAIC) has been selected as the independent contractor for the Mercer Ranch Generation Facility Potential Site Study (PSS). Staff is working with SAIC to finalize contract terms. The cost for the PSS was agreed upon at \$140,000.

<i>Agency/Public Meetings – February 27, 2001</i>	<i>Allen Fiksdal, EFSEC Manager, reporting</i>
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Two meetings are scheduled for the Cogentrix-Mercer Ranch Generation Facility project on February 27, 2001. The first is an agency meeting at 10 am in Prosser with a public meeting starting at 7 p.m. in Patterson. There will be a site visit between the two meetings. Council members who would like to attend, are encouraged to contact Michelle Elling about transportation arrangements.

Item 11: Energy Northwest Columbia Generating Station & WNP-1/4

<i>Columbia Operations</i>	<i>Bill Kiel, Energy Northwest reporting</i>
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Mr Kiel reported that the Columbia Generating Station was operating at full power generating over 1149 megawatts. The plant will be shut down for maintenance and refueling on May 18, 2001. The outage is scheduled to last approximately 30 days. Energy Northwest will refuel one-half of the reactor core to allow the plant to run for 24 months. Activities on site include ongoing construction of the storage pad for the spent fuel pool storage casks.

Mr. Kiel indicated that a letter had been sent to Mr. Fiksdal encouraging EFSEC to reduce costs as much as possible to help achieve savings in the Columbia Generating Station budget.

WNP-1 cooling tower transite removal work continues. There are three facility lease requests pending EFSEC approval. One will be on the agenda for today.

<i>Columbia Dry Cask Storage</i>	<i>Mike Mills, EFSEC staff reporting</i>
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Energy Northwest has requested an amendment to Resolution No. 295, relating to the construction of the Columbia Dry Cask Storage Facility. They are asking for a change in the alignment to the haul road and the relocation of the equipment storage building. Staff supports the request and finds the changes are consistent with the amendment criteria outlined in Resolution No. 295.

Motion: To acknowledge the changes requested by Energy Northwest to construction plans for the Columbia Generation Station Dry Cask Storage Facility.

Action: The motion passed unanimously.

<i>WNP-1/4 –Buildings 211-212 Lease</i>	<i>Mike Mills, EFSEC staff reporting</i>
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Energy Northwest requests authorization to lease Buildings 211 and 212 to North Pacific Marine Industries to manufacture pleasure boats. The lessee will be required to obtain a special use permit from the County and will be subject to complying with all lease conditions, including environmental protection provisions.

Motion: To approve leasing Buildings 211 & 212 to North Pacific Marine Industries.

Action: The motion passed unanimously.

Item 12: Rulemaking

<i>Status</i>	<i>Deborah Ross, Chair EFSEC reporting</i>
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Since the discussion on emergency rulemaking at the last Council meeting, a proposed process regarding when the FEIS needed to be issued by the Council and whether it needed to be included in the adjudicative record was distributed to selected individuals, who indicated an interest in commenting on the proposed rulemaking. After receiving three comments that were characterized as being “lukewarm: for proceeding with emergency rulemaking, the Council may want to just initiate a comprehensive review of its rules that would lead to rulemaking in the

future. The Executive Committee will discuss how to proceed and report back to the full Council.

Item 13: Legislation

<i>Status</i>	<i>Allen Fiksdal, EFSEC Manager reporting</i>
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Mr. Fiksdal reviewed several bills that propose changes to the state's siting laws. HB1382 would decrease EFSEC's threshold to 100 megawatts, while HB1631 would change the threshold to 550 megawatts and has an opt in ability for applicants proposing projects less than 550 megawatts and would have EFSEC initiate an expedited process if the Governor asked the Council to expedite the processing of an application.

SB5550 would increase EFSEC's threshold to 650 megawatts and allow projects below 650 megawatts to opt-in to the EFSEC process. SB5912 would change the Council to the equivalent of the Oregon Energy Facility Siting Council. SB5998 would delete all the megawatt thresholds, and allow proponents to opt in to the EFSEC process if they wanted to.

SB5966 would recreate the State's Energy Office and would put EFSEC staff back into the State Energy Office and take them out of the Office of Community Development.

Chair Ross asked the Council to authorize her to testify on two of the bills, SB5912 and SB5998, both which will be heard that night. While not taking a position on 5912, she would indicate general support for any efforts to enhance the efficiency of the EFSEC process. She will describe the efforts that EFSEC has already undertaken that are consistent with the spirit of Senator Fraser's bill in putting emphasis on a front-end loaded approach. Regarding 5998, Chair Ross asked the Council to authorize her to take a position against it, as it asks the Council to complete its review of the application in 6 months, which would be unreasonable for any state siting process. The Council indicated support the Chair to testify.

Item 14: Bonneville Power Administration MOU

<i>Transmission for Eastern Washington Combustion Turbine (CT) Projects</i>	<i>Allen Fiksdal, EFSEC Manager reporting</i>
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Mr. Fiksdal presented a letter from Mr. Ken Barnhardt of BPA, returning the draft Memorandum Of Agreement (MOA) between BPA and EFSEC. The draft was signed by BPA and included general language to work together to produce joint EIS's. The agreement would have EFSEC the lead on the development and preparation of the EIS's, while allowing for input from BPA and giving them an opportunity to review the EIS prior to draft or final documents being published. Staff is requesting Council give the authority to the Chair to sign the MOA, once approved by legal counsel.

The Council asked the staff to get back with EPA to clarify certain aspects of the proposed joint process. Staff will discuss this with Bonneville at their meeting on February 26 and bring back a revised MOA to the next Council meeting.

Item 15: Report from the Chair

Deborah Ross announced that she is tendering her resignation from the Chair position effective July 1, 2001, or earlier at the Governor's pleasure. She expressed her pleasure at working with the Council members during her tenure and will continue to work on Council items for the next several months until a new Chair is appointed. The timing of her resignation is due in part to the consideration of the lead time required for a new chair to become familiar with the proposed projects before formal applications are filed and an adjudicative process starts.

Item 16: Other

Chair Ross introduced the newest member of the Council, Mr. Tony Ifie, representative for the Department of Natural Resources. He is replacing Ms. Gayle Rothrock, whose term expires at the end of February. Mr. Ifie stated he plans to start with the Council on March 1st and the Council staff has received a letter appointing him as designee for Doug Sutherland, Commissioner of Public Lands, Department of Natural Resources. The Council has greatly appreciated Gayle Rothrock's contributions to the Council.

Mr. Fiksdal reported he received a letter from the Wasserstein, Perella and Company Inc. regarding a jurisdiction determination for the Everett Delta 2 project. In discussing the request with Mr. Fallis, he recommended Council respond to the letter requesting additional information to assist staff with responding to the original request.

Mr. Fiksdal requests authorization from the Council to respond to Mr. Buckfire of Wasserstein, Perella and Company, Inc., asking for the information in a form and format more consistent with our rules, including explaining declaratory orders. The Council authorized Mr. Fiksdal to respond to Mr. Buckfire.

Mr. Byers of WUTC offered to arrange a briefing from BPA on proposed projects and schedules in the Columbia River Basin region for a future Council meeting. Chair Ross agreed it would be helpful and asked him to proceed with arranging a briefing.

Mr. Fiksdal suggested scheduling a briefing from Dave Warren of OTED Energy Policy on the natural gas supply in the Pacific Northwest region. Chair Ross agreed it would be good if staff could have Mr. Warren attend the March Council meeting and to request that BPA provide a briefing at the April Council meeting.

Item 17: Adjourn

The meeting was adjourned at 3:45 p.m.